

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
September 8, 2003

**D042400 Sandra S. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**

The petition is denied. McConnell, J.; We Concur: Haller, Acting P.J., Aaron, J.

Court convened at 9:00 a.m.

Present: The Honorable James McIntyre, Acting Presiding Justice, and The Honorable Associate Justices Terry O'Rourke and Judith McConnell

Clerk: D. E. Moore

**D040616 People v. Carter**

Cause called on merits. Cynthia M. Sorman, Esq. argued for appellant. Lynne McGinnis, Deputy Attorney General argued for respondent. Ms. Sorman replied. Cause submitted.

**D040166 Anticancer, Inc. v. Novartis Corporation et al.**

Cause called on merits. Guylyn R. Cummins, Esq. argued for appellant, Xenogen Corporation. Karen Shichman Crawford, Esq. argued for appellant, Novartis Pharmaceuticals Corporation and etc. Dan Lawton, Esq. argued for respondent. Ms. Cummins replied. Ms. Crawford replied. Cause submitted.

**D040751 Brooks v. Billington**

Cause called on merits. A. David Puzo, Esq. argued for appellant. Michael F. Kenny, Esq. argued for respondent. Mr. Puzo replied. Cause submitted.

Court recessed at 10:20 a.m. until 1:30 p.m.

Court reconvened at 1:30 p.m.

Present: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices Terry O'Rourke and Judith McConnell

Clerk: D. E. Moore

**D041141 In re Stacy S., a Juvenile**

Cause called on merits. Lora Martin, Esq. argued for appellant. Ivy Fitzgerald, Deputy Attorney General argued for respondent. Cause submitted.

**D040529 Settle v. Destination Hotels & Resorts, Inc., et al.**

Cause called on merits. Charles T. Hoge, Esq. argued for appellant. Mia Farber, Esq. argued for respondent, Destination Hotels & Resorts, Inc. Susan J. Boyle, Esq. argued for respondent, Jacobs. Mr. Hoge replied. Cause submitted.

**D040544 Klaren v. The Adoption Center of San Diego, Inc., et al.**

Cause called on merits. Steven L. Victor, Esq. argued for appellant. Scott L. Metzger, Esq. argued for respondent, The Adoption Center of San Diego. Manuel Corrales, Esq. argued for respondent, Phelps. Mr. Victor replied. Cause submitted.

Court recessed at 2:39 p.m. until Tuesday, September 9, 2003 at 9 a.m.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
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September 8, 2003 (Continued)

**D042665        In re Kelly on Habeas Corpus**

The petition is denied.

**D042728        Snipes v. Superior Court of San Diego County/People**

The petition is denied and the stay is vacated.

**D042708        Gwen R. et al. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**

The attorney for petitioner Robert R. has notified the court on behalf of the petitioner that a Petition for Writ of Mandate under Rule 39.1B will not be filed as there are no viable issues for writ review. The case as to Robert R. is dismissed.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
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September 9, 2003

**D039497        People v. Howard**

The judgment is affirmed. O'Rourke, J.; We Concur: Benke, Acting P.J., McIntyre, J.

Court convened at 9:00 a.m.

Present: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices James McIntyre and Terry O'Rourke

Clerk: D. E. Moore

**D040532        Loritz v. Linville**

Cause called on merits. Richard P. Loritz, II, argued telephonically for appellant in pro per. Roger Dyer, Esq. argued for respondent. Mr. Loritz replied. Cause submitted.

**D040963        People v. Harbold**

Cause called on merits. Patrick J. Hennessey, Esq. argued for appellant. Tammy Hennick, Deputy Attorney General argued for respondent. Cause submitted.

**D039878        Garcia et al. v. Gomez**

Cause called on merits. Thomas N. Charchut, Esq. argued for appellant. Jerome R. Moe, Esq. argued for respondent. Mr. Charchut replied. Cause submitted.

Court recessed at 9:45 a.m. to change panel members. New panel members: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices James McIntyre and Cynthia Aaron

**D039704        Bazar et al. v. Calder**

Cause called on merits. Jacqueline Vinaccia, Esq. argued for appellant. William Hanagami, Esq. argued for respondent. Ms. Vinaccia replied. Cause submitted.

Court recessed at 10:11 a.m. until 1:30 p.m.

Court reconvened at 1:30 p.m.

Present: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices Gilbert Nares and Judith Haller

Clerk: D. E. Moore

**D040018        In re Kaykvan S., a Juvenile**

Cause called on merits. James Joseph Warner, Esq. argued for appellant. Taylor Nguyen, Deputy Attorney General argued for respondent. Mr. Warner replied.

Court recessed at 1:59 p.m. to change panel members. New panel members: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices Gilbert Nares and Cynthia Aaron

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
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DIVISION ONE  
September 9, 2003 (Continued)

**D040341        People v. Mann**

Cause called on merits. Amanda Doerrer, Esq. argued for appellant. Heather Wells, Deputy Attorney General argued for respondent. Ms. Doerrer replied.

**D039664        People v. Dennison**

Cause called on merits. Martha L. McGill, Esq. argued for appellant. Marilyn George, Deputy Attorney General argued for respondent. Ms. McGill replied. Cause submitted.

Court recessed at 2:30 p.m. until Wednesday, September 10, 2003 at 9 a.m.

**D041584        People v. Haman**

The judgment is affirmed. Huffman, Acting P.J., We Concur: McDonald, J., McConnell, J.

**D041812        In re Saul D., a Juvenile**

The judgment is affirmed. Haller, J.; We Concur: Huffman, Acting P.J., Aaron, J.

**D042671        Gerardi et al. v. Superior Court of San Diego County/Prewitt**

The petition is denied.

**D042837        Beaner v. Superior Court of San Diego County/People**

The petition is denied.

**D042841        Archuleta v. Superior Court of San Diego County/People**

The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
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September 10, 2003

**D039032        People v. Miller**

The judgment is affirmed. McDonald, J.; We Concur: Haller, Acting P.J., McIntyre, J.

**D041318        People v. Taylor**

The judgment is affirmed. Huffman, Acting P.J.; We Concur: McIntyre, J., Aaron, J.

**D041208        Murphy v. Cooper et al.**

The orders are affirmed. Murphy is entitled to costs on appeal. McDonald, Acting P.J.; We Concur: McIntyre, J., Aaron, J.

Court convened at 9:00 a.m.

Present: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices Terry O'Rourke and Judith McConnell

Clerk: D. E. Moore

**D040496        Sea Financial, Inc., et al. v. Court Reporting Institute & Agency, Inc.**

Cause called on merits. Andrea M. Gauthier, Esq. argued for appellant. James E. Friedhofer, Esq. argued for respondent. Ms. Gauthier replied. Cause submitted.

**D041147        Sea Financial, Inc., et al. v. Court Reporting Institute & Agency, Inc.**

Cause called on merits. Andrea M. Gauthier, Esq. argued for appellant. James E. Friedhofer, Esq. argued for respondent. Cause submitted.

Court recessed at 9:30 a.m. to change panel members. New panel members: The Honorable Gilbert Nares, Acting Presiding Justice, and The Honorable Associate Justices Judith Haller and Terry O'Rourke

**D039651        Mercury Books, Inc. v. G & B Emporia, Inc., et al.**

Cause called on merits. Mary Roberson, Esq. argued for appellant. Roger Don Diamond, Esq. argued for respondent. Ms. Roberson replied. Cause submitted.

Court recessed at 9:53 a.m. until 1:30 p.m.

Court reconvened at 1:30 p.m.

Present: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices Alex McDonald and James McIntyre

Clerk: D. E. Moore

**D042054        Abatti v. Superior Court/People-RPI**

Matter called on merits. John W. Breeze, Esq. argued for petitioner. Carmela Simoncini, Esq. argued for amicus appellant. Charles Ragland, Deputy Attorney General argued for real party in interest, The People. Mr. Breeze replied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
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September 10, 2003 (Continued)

Court recessed at 2:10 p.m. to change panel members. New panel members: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices Judith Haller and Cynthia Aaron

**D040063            Gonzalez v. Gutierrez**

Cause called on merits. Lisa Perkins-Cohen, Esq. argued for appellant. Victor Augustus Mordey, Esq. argued for respondent. Ms. Cohen replied. Cause submitted.

**D039856            Faucetta v. Red Planet Ranch, Inc.**

Cause called on merits. Donald R. Worley, Esq. argued for appellant. Carl Fabian, Esq. argued for respondent. Cause submitted.

**D039471            County of San Diego v. Commission on State Mandates, et al.**

Cause called on merits. Timothy M. Barry, Esq. argued for appellant. Ramon De La Guardia, Deputy Attorney General argued for respondent, State of California. Paul Starkey, Esq. argued for respondent, Commission on State Mandates. Mr. Barry replied. Cause submitted.

Court recessed at 3:35 p.m. until Thursday, September 11, 2003 at 9 a.m.

**D040868            Rodriguez v. Morgan Stanley**

The order is reversed and remanded with directions to enter an order granting Brokers' petition to compel arbitration. Brokers are entitled to costs on appeal. McDonald, J.; We Concur: Haller, Acting P.J., McIntyre, J.

**D039046            People v. Newsome**

The judgment is affirmed. The clerk of the superior court is ordered to modify the abstract of judgment to reflect that the one-year term on the weapon enhancement imposed on count 2 is to be served concurrently with the one-year enhancement imposed on count 1, and forward a certified copy of the abstract of the amended abstract of judgment to the Department of Corrections. O'Rourke, J.; We Concur: Benke, Acting P.J., McIntyre, J.

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**D042686        In re Baker on Habeas Corpus**

The petition is denied.

**D042659        In re McCloud in Habeas Corpus**

The petition is denied.

**D042859        LeMaitre v. Calimas**

The petition is denied.

**D042857        Calimas v. Superior Court of San Diego County/LeMaitre**

The petition is denied.

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**D042661      In re Bell on Habeas Corpus**

The petition is denied.

Court convened at 9:00 a.m.

Present: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices Gilbert Nares and Judith McConnell

Clerk: D. E. Moore

**D041788      Snider v. Superior Court/Quantum Productions, Inc.-RPI**

Matter called on merits. Clinton Matthew Sandvick, Esq. argued for petitioner. Nathan Low, Esq. argued for real party in interest. Mr. Sandvick replied. Matter submitted.

Court recessed at 9:21 a.m. to change panel members. New panel members: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices James McIntyre and Judith McConnell

**D040901      The Retirement Group v. Linsco/Private Ledger Corporation et al.**

Cause called on merits. Jonathan Andrews Boynton, Esq. argued for appellant, Linsco. Michael Warren Vivoli, Esq. argued for respondent. Cause submitted.

Court recessed at 9:35 a.m. to change panel members. New panel members: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices James McIntyre and Judith McConnell

**D040295      Kondrick v. Blomingdale**

Cause called on merits. Peter D. Lepiscopo, Esq. argued for appellant. H. Paul Kondrick, argued for appellant in pro per. Mr. Lepiscopo replied. Cause to be submitted at a later date.

Court recessed at 10:18 a.m. until 1:30 p.m.

Court reconvened at 1:30 p.m.

Present: The Honorable Judith Haller, Acting Presiding Justice, and The Honorable Associate Justices Alex McDonald and James McIntyre

Clerk: D. E. Moore

**D040039      Cardoza v. Studios De La Playa, S.A., et al.**

Cause called on merits. Matthew Herron, Esq. argued for appellant. Mary Sungaila, Esq. argued for respondent, Studios De La Playa, S.A. Douglas M. Butz, Esq. argued for respondent, Baker & McKenzie. Mr. Herron replied. Cause submitted.

Court recessed at 2 p.m. to change panel members. New panel members: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices James McIntyre and Terry O'Rourke



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September 11, 2003 (Continued)

**D041038        People v. Felicetta**

Cause called on merits. Amanda F. Doerrler, Esq. argued for appellant. Lisa Jacobsen, Deputy Attorney General argued for respondent. Ms. Doerrler replied. Cause submitted.

**D041376        People v. Esayan**

Cause called on merits. Ronald A. Jackson, Esq. argued for appellant, Esayan. Richard Armstrong, Deputy District Attorney argued for respondent, The People. Gary Brozio, Deputy Attorney General argued for amicus curiae. Danielle Davidian, Deputy City Attorney was present in oral argument for amicus curiae, but did not argue. Mary Frances Prevost, Esq. argued for amicus appellant, Esayan. Mr. Jackson replied. Cause submitted.

Court recessed at 3:07 p.m. until Friday, September 12, 2003 at 9:00 a.m.

**D042002        In re Christopher J., a Juvenile**

The judgment is affirmed. McDonald, J.; We Concur: Huffman, Acting P.J., Haller, J.

**D041469        In re Elizabeth C., a Juvenile**

**D041628** (consolidated) The orders are affirmed. Huffman, Acting P.J.; We Concur: McIntyre, J., McConnell, J.

**D042705        Grossmont Union High School District et al. v. Superior Court of San Diego County/Zuckor et al.**

The petition is denied.

**D042685        Sam v. Superior Court of San Diego County/Le**

The petition is denied.

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September 12, 2003

**D041279        Cross v. Roberson**

The judgment is affirmed. Huffman, Acting PJ.; We Concur: Haller, J., McConnell, J.

**D040649        People v. Johnson**

The judgment is affirmed. Haller, J.; We Concur: Huffman, Acting P.J., Nares, J.

Court convened at 9:00 a.m.

Present: The Honorable Gilbert Nares, Acting Presiding Justice, and The Honorable Associate Justices Judith Haller and Cynthia Aaron

Clerk: D. E. Moore

**D040052)        People v. Hansen**

**D040246)        People v. Hansen**

Cause called on merits. Patrick Morgan Ford, Esq. argued for appellant. Pamela Ratner, Deputy Attorney General argued for respondent. Mr. Ford replied. People's appeal: James Adkins, Deputy District Attorney argued for appellant. Patrick Morgan Ford, Esq. argued for respondent. Cause submitted.

**D040143        Sellaheva v. Sellaheva**

Cause called on merits. Gary Harrison, Esq. argued for appellant. Andy Cook, Esq. argued for respondent. Mr. Harrison replied. Cause submitted.

**D041745)        In re Allanah T., a Juvenile**

**D041983)        In re Allanah T., a Juvenile**

Cause called on merits. Caitlin Rae, Deputy County Counsel argued for respondent. Carl Fabian, Esq. argued for the minor. Maryann Marisa Milcetic, Esq. was present in oral argument for appellant, but did not argue. Cause submitted.

Court recessed at 10:17 a.m. until 1:30 p.m.

Court reconvened at 1:30 p.m.

Present: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices Gilbert Nares and James McIntyre

Clerk: D. E. Moore

**D040627        Padres, L.P. v. Henderson**

Cause called on merits. Stephen M. Hogan, Esq. argued for appellant. Kathryn E. Karcher, Esq. argued for respondent. Mr. Hogan replied. Cause submitted.

Court recessed at 2:28 p.m. to change panel members. New panel members: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices James McIntyre and Judith McConnell

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
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September 12, 2003 (Continued)

**D040029        Weide v. J&W Redwood Lumber Company, Inc.**

Cause called on merits. Marianne Johnson, Esq. argued for appellant. Darin L. Wessel, Esq. argued for respondent. Gary Sinkeldam, Esq. was present in oral argument for respondent, but did not argue. Ms. Johnson replied. Cause submitted.

**D039491        People v. Arias**

Cause called on merits. Nancy J. King, Esq. argued for appellant. Jonathan Lynn, Deputy Attorney General argued for respondent. Ms. King replied. Cause submitted.

Court adjourned at 3:07 p.m.

**D040743        People v. Ransom**

The superior court is instructed to amend the abstract of judgment to reflect: (1) the determinate sentence for the enhancements is 13, not 14, years; and (2) the sentence on count 4 (injury to a cohabitant) is stayed. The court shall forward a corrected abstract of judgment to the Department of Corrections. As so modified, the judgment is affirmed. Haller, J.; We Concur: Huffman, Acting P.J., Nares, J.

**D036734        Schulster Tunnels/Pre-Con v. Traylor Brothers, Inc., and Obayashi Corp, Traylor Brother, Inc., et al., City of San Diego, Schulster Tunnels, Inc., et al.**

The judgment is reversed in part as to City's liability to TBO for indemnity. In all other respects, the judgment is affirmed. Schulster is entitled to costs on appeal. TBO and City shall bear their own costs on appeal. CERTIFIED FOR PARTIAL PUBLICATION. Benke, Acting P.J.; We Concur: Huffman, J., McDonald, J.

**D042332        In re April J., a Juvenile**

The appeal is dismissed. Huffman, Acting P.J.; We Concur: McConnell, J., Aaron, J.

**D041862        In re Clare L., a Juvenile**

The juvenile court's order is affirmed but for the true finding Clare committed receiving stolen property. That true finding is reversed. McConnell, J.; We Concur: Haller, Acting P.J., McDonald, J.

**D040872        People v. Delgadillo**

The judgment is affirmed. Benke, Acting P.J.; We Concur: McIntyre, J., O'Rourke, J.

**D042845        In re Aubreeawna P. et al., a Juvenile**

The Notice of Appeal, filed on September 3, 2003 from the July 3, 2003 order, is one day late. This court is therefore without jurisdiction to hear the appeal. The appeal is accordingly dismissed.

**D042048        In re Karla C., a Juvenile**

**D042060        In re Karla C., a Juvenile**

The orders are affirmed. McConnell, J.; We Concur: Benke, Acting P.J., Nares, J.

**D042243        In re the Marriage of Jaffe**

The appeal is dismissed.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
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September 12, 2003 (Continued)

**D042732        Lacher v. East County Investigations A Corp., et al.**

The dismissal order filed on September 10, 2003, is vacated. The appeal is reinstated.